



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Simons *et al.*
Serial No. : 09/145,916
Filed : September 2, 1998
For : "STIMULATION OF ANGIOGENESIS VIA
ENHANCED ENDOTHELIAL EXPRESSION
OF SYNDECAN-4 CORE PROTEINS"
Examiner : David Guzo
Group Art Unit : 1636
Attorney's Docket No. : BIS-039

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commission for Patents, P.O. Box 1450, Mail Stop: RCE, Alexandria, Virginia 22313-1450 on: Jan. 26, 2004.

Attorney for applicants: David Prashker

Signature: Donald Roullet

Date: Jan. 26, 2004

RESPONSE SUBMITTED IN REPLY TO SECOND
NOTICE OF NON-COMPLIANT AMENDMENT

Commissioner for Patents
P.O. Box 1450
Mail Stop: RCE
Alexandria, Virginia 22313-1450

Sir:

As part of the documents supporting the Request For Continuing Examination previously filed on September 9th, 2003 with the U.S. Patent Office, applicants presented their substantive Response in full to the most recently received (final) Official Action mailed April 11, 2003 for the above-identified application.

Shortly thereafter, A Notice of Non-Compliant Amendment was mailed on October 1st, 2003 which identified non-compliance in the form of the amendment to the claims as filed September 9th, 2003. A Response to this Notice which was believed to present the claims in a form and manner which complies with the mandatory revised amendment practice of 37 C.F.R. 121 was then submitted under a Certificate Of Mailing dated December 8th, 2003.

Subsequently, a second A Notice of Non-Compliant Amendment was sent - whose date of mailing on the face of the document recites December 23rd, 2003. However, the formal postmark date stamped on the outside of the envelope reveals that this particular correspondence was markedly delayed in being placed with the U.S. Postal Service; and was actually mailed by the U.S. Postal Service only on January 19th, 2004. Applicants' attorney then received the instant Notice and correspondence in his post box three days later - *i.e.*, on January 22nd, 2004. This allowed applicant and his attorney only one calendar day in which to act within the

stated initial one month's time from the mail date of the Notice to supply the corrected section which complies with 37 C.F.R. 1.121.

Applicants' and their undersigned attorney wish to point out that they have been materially deprived and denied the right and ability to respond within the initial one month's time limitation owing to the current practices of the Mail Room within the U.S. Patent Office; and also been compelled to request and pay for a month's extra time in which to file a Reply to the Notice dated December 23rd, 2003 - but not because of any fault or lack of attention on their part. Admittedly, the cost and fee for requesting a one month extension of time in which to respond is not great - but that is neither the point nor the issue. What is central and important is the clearly apparent failure of the Mail Room personnel within the U.S. Patent Office to act responsibly or properly - as is shown by their inability to mail the instant document until three weeks after the mail date stated on the face of the Notice. Moreover, this particular example is not an isolated instance of neglect. To the contrary, the marked defects and blatant deficiencies of the Mail Room personnel within the U.S. Patent Office are unfortunately routine and customary events; are remarkably repetitious in their occurrences; and have become quite notorious and generally recognized as constituting the norm.

Despite the foregoing difficulty, applicants and their undersigned attorney now reply to the instant Second Notice, which identifies non-compliance in form of an improper status identifier for the claims made filed September 9th, 2003. Accordingly A complete listing of all the claims, including withdrawn claims, in ascending numerical order, and with the proper status identifier is presented beginning on the immediately following page.